

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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SECURITIES INVESTOR PROTECTION	:	
CORPORATION,	:	Adv. Pro. No. 08-1789 (SMB)
	:	
Plaintiff-Applicant,	:	SIPA LIQUIDATION
	:	
v.	:	(Substantively Consolidated)
	:	
BERNARD L. MADOFF INVESTMENT	:	
SECURITIES LLC,	:	
	:	
Defendant.	:	

-----X	:
In re:	:
	:
BERNARD L. MADOFF	:
	:
Debtor.	:

-----X	:	
IRVING H. PICARD, Trustee for the Liquidation	:	
of Bernard L. Madoff Investment Securities LLC,	:	Adv. Pro. No. 12-01210 (SMB)
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
SCHRODER & CO. BANK AG,	:	
	:	
Defendant.	:	
-----X	:	

**DEFENDANT-APPELLEE SCHRODER AG'S COUNTER-DESIGNATION  
OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL**

Defendant-Appellee Schroder & Co. Bank AG ("Schroder AG"), by and through its undersigned counsel, respectfully submits, pursuant to Rule 8009 of the Federal Rules of Bankruptcy Procedure and Rule 8009-1 of the Local Bankruptcy Rules for the Southern District of New York, its counter-designation of items to be included in the record on appeal with respect

to the appeal by Irving H. Picard (the “Trustee”), as trustee of the substantively consolidated estate of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and Bernard L. Madoff, individually, in the above-captioned adversary proceeding of the Stipulated Final Order Granting Motion to Dismiss Complaint (the “Final Judgment”) before the United States Court of Appeals for the Second Circuit.

**COUNTER-DESIGNATION OF ITEMS TO BE  
INCLUDED IN THE RECORD ON APPEAL**<sup>1</sup>

1. All items designated or to be designated by any other appellant, cross-appellant, appellee, or cross-appellee to any of the appeals or cross-appeals from the Final Judgment, including, without limitation, the items designated in the Trustee’s Statement of Issues to be Presented and Designation of Items to be Included in the Record on Appeal (ECF No. 79);<sup>2</sup>
2. The Certification of Direct Appeal to Court of Appeals (ECF No. 81); and
3. The April 8, 2016 Letter on Behalf of the Subsequent Transferee Defendants in Response to Mr. Sheehan’s April 7, 2016 Letter (filed in the action captioned *Securities Investor Protection Corporation v. Bernard L. Madoff Investment Securities LLC*, Adv. Pro. No. 08-1789 (SMB) (ECF No. 13070)).

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<sup>1</sup> Items designated include all exhibits and submissions attached thereto and, as to hearing transcripts, any and all documents admitted into evidence.

<sup>2</sup> Unless otherwise stated, citations to (ECF No. \_\_) refer to docket entries from the action captioned *Picard v. Schroder & Co. Bank AG*, Adv. Pro. No. 12-01210 (SMB) (Bankr. S.D.N.Y.).

**RESERVATION OF RIGHTS**

Defendant-Appellee Schroder AG expressly reserves the right to supplement the record on appeal or cross-appeal and to adopt the designation of any items designated or counter-designated by any other appellant, cross-appellant, appellee, or cross-appellee to any of the appeals or cross-appeals from the Final Judgment.

Dated: April 11, 2017  
New York, New York

ROPES & GRAY LLP

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